IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 148 OF 1993.

The Director of Income-tax
(Exemption) ... Applicant.

V/s.

Shri J.J. Charity Fund ... Respondent.

Shri A.N. Kotangale, Senior Counsel with D.A. Dubey for the applicant.

Shri P.D. Damodar i/b Kanga & Co. for the respondent.

CORAM : V.C.DAGA AND A.S.AGUIAR, JJ.

DATED : 18.7.2005

P.C. :

. By this reference under section 256 of the Income-tax Act, 1961, the Income Tax Appellate Tribunal has referred the following questions of law for the opinion of this Court:

1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in allowing loss of Rs. 2,69,856/- on sale of investment as deduction for the purpose of determining the income liable to be taxed in the hands of the assessee trust?

. Learned counsel for the parties agreed that the aforesaid issue has already been answered by

this Court in the judgment in the case of **C.I.T. vs. Institute of Banking (2003) 264 ITR 110** in the affirmative. In this view of the matter, we answer the issue in the affirmative i.e. in favour of the assessee and against the revenue.

. Reference stands disposed of with no order as to costs.

(A.S.AGUIAR, J.) **(V.C.DAGA, J.)**